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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,099	08/06/2001	Valerie G. Dugan	VD002	9467

31647 7590 12/13/2004

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EXAMINER	
RUHL, DENNIS WILLIAM	
ART UNIT	**PAPER NUMBER**
3629	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/923,099	DUGAN, VALERIE G.
	Examiner	Art Unit
	Dennis Ruhl	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-20 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2/25/02.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3,4,9-20, are rejected under 35 U.S.C. 102(e) as being anticipated by Bar-Levav (6237872).

For claims 1,10-14, Bar-Levav discloses a method and system for requesting to use the next available restroom on an airplane. The passenger uses a device 10,11, at their seat to send a request to use the next available restroom. The passenger is then effectively in a queue and the passenger is notified via a monitor at their seat of when the restroom will be available. See column 10, lines 27-35; column 11, lines 10-29. The controller is the service computer disclosed by Bar-Levav. The claimed monitoring device is considered to be inherent because the system of Bar-Levav informs the user when they can use the restroom so the system is inherently monitoring the queue and bathroom occupancy. The system must do this; otherwise, the system would not be able to inform the user of when it is their turn to use the restroom.

For claims15,20, Bar-Levav discloses that the passenger can request to dine in the "Just below the Angels" parlor in the same manner as requesting to use the restroom. The system will inform the passenger of when they can dine, if at all. If the passenger requests to dine during landing, they will not be allowed to dine. To dine in

the parlor is an event associated with an airplane flight. With respect to the purchasing of a position in a preferred queue, Bar-Levav discloses that the passengers that are sitting in the lower section are placed in a preferred queue (have priority over other passengers). The purchase of the ticket for a seat in the lower section that gives you priority for a dining request satisfies the recited purchasing a position in the queue.

For claims 3,4,9,19, the examiner considers the recitation of computer code that operates "with the controller so as to allow the controller to...." to be satisfied by the operating system of the service computer of Bar-Levav. An operating system includes many subroutines and different computer code that allows the computer to operate (i.e printer drivers, modem drivers, etc.). The operating system will allow the claimed function to occur as claimed. All that is claimed is code that allows something to happen, where the code is not claimed as executing any particular method. For claims 3,9, Bar-Levav does disclose what is claimed so even if weight is given to the claimed method steps, Bar-Levav discloses what is claimed.

For claims 16-18, the recitation of the event is considered to be the intended use of the system and is given minimal patentable weight. Claims 16-18 are article claims and the system of Bar-Levav is fully capable of being used as claimed. Reciting what the event is (in article claims) will not serve to distinguish over Bar-Levav.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-Levav (6237872). Bar-Levav discloses the invention substantially as claimed.

For claim 2, not disclosed is that the monitoring device is selected from the group as claimed. The examiner has set forth (with respect to claim 1) the reasoning as to why the monitoring device is considered inherent in the system of Bar-Levav. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the monitoring device be a door switch, a motion detector, or a light beam detection circuit so that the system can monitor when the restroom is in use and also to accurately be able to inform passengers of when it will be their turn to use the restroom. A monitoring device is inherent in Bar-Levav and the choice of what kind of monitoring device to use is considered to be obvious to one of ordinary skill in the art because the instant specification fails to set forth that the use of the claimed monitoring devices solve any stated problem or produces any unexpected result. In the absence of an

unexpected result or disclosure of a particular problem being solved, the examiner concludes the choice of what type of device to use to be obvious.

6. Claims 5-8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-Levav in view of Cunningham (5808553). Bar-Levav discloses the invention substantially as claimed.

For claim 5, Bar-Levav does not disclose that the controller operates a lock on the restroom, where a code is needed to gain entry. Cunningham discloses a system and method for enforcing hygiene for people that use a bathroom. A code needs to be entered to unlock the door to gain access. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the service computer and restroom of Bar-Levav with a system as disclosed by Cunningham in an effort to enforce good hygiene practices. Hygiene is important anytime, but when inside an airplane you are in a closed and confined space with many people and enforcing personal hygiene as disclosed by Cunningham would be desirable. This would help prevent the spread of germs, etc.. There are many people in the world that do not wash their hands, this is a known fact, and Cunningham has disclosed a system/method that makes sure you wash your hands.

For claims 6,7, the passenger would need to be given the code to gain access to the bathroom. Because the controller sends information to the passenger on when it is their turn, the controller is configured to send a code as well (fully capable of doing what is claimed). The sending of data to the device in the seat of the passenger satisfies what is claimed.

For claim 8, the examiner considers the recitation of computer code that operates "with the controller so as to allow the controller to...." to be satisfied by the operating system of the service computer of Bar-Levav. An operating system includes many subroutines and different computer code that allows the computer to operate (i.e printer drivers, modem drivers, etc.). The operating system will allow the claimed function to occur as claimed. All that is claimed is code that allows something to happen, where the code is not claimed as executing any particular method.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "DMV News: Emporia DMV Satellite Office expands services", Waytena et al. (6748364), Pental (6435406), Paganini et al. (4398257), Ahlstrom et al. (6059184), Glogovsky (6203217) disclose queuing systems and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DENNIS RUHL
PRIMARY EXAMINER